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ANNEX A

NOTE OF MEETING ON LIST D SCHOOLS – 25 SEPTEMBER 2003

Present: Minister for Education and Young People (Chair)
Minister for Justice
Minister for Finance and Public Services
Deputy Minister for Education and Young People
Solicitor General
Maureen Verrall, ED-LACYD
Gerald Byrne, ED-LACYD
Bill Gilchrist, Deputy Crown Agent
Stuart Foubister, Legal Secretary to the Law Officers
Claire Corbett, APS/ Deputy Minister for Education and Young People

1. Opening, the **Minister for Education and Young People** noted that the advice from officials laid out three options for proceeding: an inquiry; a truth and reconciliation commission, and a package of other measures. The meeting should decide how to proceed from these options.

2. In discussion the following points were made:

- a public inquiry was unlikely to help the individuals concerned or help to inform on how to improve things for the future. It would be likely to reveal lessons already learned about residential child care in the period.
- the purpose of a commission was unclear and operational questions, such as how any such commission would fit with the legal redress system, were problematic. I was also unclear what it would add to existing processes and services for abuse survivors.
- both a public inquiry and a truth and reconciliation commission would involve heavy costs, most of which would be likely to accrue to legal and other advisers rather than to the victims themselves
- the issue was not confined to adult survivors of sexual abuse in residential care. There were other forms of abuse to be considered, for example physical and emotional abuse, and other settings, for example foster care, which had not so far attracted much attention. The costs of extending services to these groups would have to be identified but, at this stage, the extent of support should not be limited.
- there were different reasons for accessing information on files, to allow counselling for those suffering or to justify compensation.
- allowing access to files and divulging the names of individuals (both pupils and teachers) raised a number of difficult issues. For example, current legal proceedings would have to be considered, both ongoing criminal investigations and existing civil litigation which could be jeopardised by Executive actions. If access was only allowed to legal representatives, the Executive could be asked to pay legal costs. There would also be difficulties in controlling the use of information once access had

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been given, for example there were concerns that legal advisers would be able to identify other individuals and approach them to also make claims.

- there may be fewer difficulties if other names on files were redacted, which would protect the privacy of others. The amount of work required to redact the files would have to be examined further, along with the cost and staff resources required and where this burden should fall. Access to redacted files would not be limited to legal representatives so there would be less pressure for the Executive to meet legal costs.
- the Executive's legal liability for compensation might be limited. There might have been methods of complaining to Ministers that would have to be investigated, but generally Government involvement was only in inspection.
- compensation beyond the Executive's strict legal liability would raise difficult issues and should be considered further when the prospects for existing civil claims was clearer, which would not be until legal argument in the test case in June 2004.
- there was a need to consider how other organisations had handled similar claims, for example the churches and voluntary organisations. Barnado's and Quarriers had already undertaken work to support victims of abuse and those from whom essential personal information had been withheld (including counselling). Barnado's in particular were felt to have taken a particularly enlightened, positive and victim focused approach and they should be contacted to see whether there were lessons to be learned.
- the experiences of other countries might also be relevant. There were doubts about the effectiveness and the cost of the approach taken in Ireland. The Canadians had generally adopted a no fault compensation scheme. The Australian approach might be more promising and should be investigated further.
- previous public announcements by the Executive, and in particular any Ministerial statements, on a response to these allegations should be checked for any existing commitments.

3. Summing up, the **Minister for Education and Young People** said that the meeting agreed that a package of other measures was the preferred option. A number of actions had been identified. The options for and costs of allowing access to files should be examined further with a view to the files being redacted for access by those making allegations. Barnado's and other voluntary organisations should be contacted to see what actions they had taken, and methods of access to other institutions should be considered. The approach in other countries, particularly Australia should be looked at in more detail. Current Health Department work would have to be examined to see how it could relate to adult survivors of abuse other than sexual abuse. The experiences of those in foster care in the relevant period should be examined further. Previous Ministerial statements should be established. The public handling of this issue would also have to be considered and Ministers should be given further advice on all of these issues.

ED-LACYD
16 October 2003